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The Legal Certainty of Medical Malpractice in Relation to Working Hour Violations

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Abstract

The medical profession faces significant legal risks related to malpractice allegations, partly driven by physician fatigue resulting from excessive working hours. In Indonesia, the absence of specific regulations on maximum working hours for physicians creates legal uncertainty and tends to place full responsibility on individual practitioners. This study aims to analyze the legal certainty afforded to doctors in malpractice cases associated with work-related fatigue and violations of working hour standards based on prevailing laws and regulations. Using a normative juridical method with a literature study approach, the research examines secondary data consisting of primary legal materials, including the 1945 Constitution, Law Number 6 of 2023 on Job Creation, and Law Number 17 of 2023 on Health, along with secondary legal materials analyzed qualitatively. The findings show that although no explicit working hour regulations for physicians exist, legal protection can still be grounded in current laws. The Manpower Law provides standard working hour guidelines, while the Health Law obliges healthcare facilities to ensure the safety and well-being of medical personnel. Therefore, legal responsibility for malpractice caused by fatigue due to excessive work systems should not rest solely on individual physicians but may also be attributed to healthcare institutions as employers.

Keywords

Legal Certainty, Legal Liability, Malpractice, Physician Fatigue, Working Hours.

1. Introduction

The medical profession plays a vital role in protecting fundamental human rights, particularly the right to health and life (Brunelli et al., 2022; DeCamp et al., 2023). Because every medical action affects patient safety, doctors must comply with professional standards, ethical codes, and legal obligations. Despite this, the profession remains highly exposed to legal risks, especially allegations of malpractice, defined as deviations from standards or negligence that cause patient harm and may result in criminal, civil, or administrative liability. Importantly, medical errors do not always stem from a doctor's personal negligence but can also be influenced by external systemic conditions, including fatigue caused by excessive working hours.

Physician fatigue has become a major international concern. Research consistently shows that long working hours, dense shift schedules, and limited rest negatively affect doctors' performance. Fatigue reduces concentration, slows clinical decision-making, and increases medical error risks. Caruso (2022) emphasizes that fatigued physicians are more prone to diagnostic and procedural mistakes, while Linzer (2022) notes that excessive workloads accelerate burnout and lower service quality. Data from the World Health Organization (2021) indicates that about 15% of global patient safety incidents are directly linked to healthcare worker fatigue. Similarly, Shanafelt et al. (2022) found that United States physicians working more than 80 hours per week are twice as likely to make errors compared to those working under 60 hours. The Harvard Risk Management Foundation (2021) further reports that medical services delivered outside normal working hours carry a 21% higher likelihood of malpractice claims.

A similar condition is evident in Indonesia, where doctors especially in regional and referral hospitals often face workloads far beyond reasonable limits, frequently being on call for more than 24 hours with minimal rest. The situation worsened during the COVID-19 pandemic, when service demand surged while medical personnel were insufficient. The Ministry of Health (2021) reported over 900 health-worker deaths during the pandemic, many linked to fatigue and excessive exposure. A survey by the Indonesian Medical Association (2022) found that more than half of Indonesian doctor experience severe fatigue due to long working hours, with one-third believing it reduces the quality of their services. Research from the University of Indonesia (2021) further shows that nearly 30% of resident physicians suffer severe burnout, and over 70% frequently work while tired or sleep-deprived. These findings indicate that fatigue is not an individual issue but a serious systemic problem.

Legal regulations in Indonesia do not specifically address physicians' working hours. Law Number 29 of 2004 on Medical Practice and Law Number 36 of 2009 on Health only emphasize that doctors must practice according to professional standards, yet neither defines safe working-hour limits. Consequently, malpractice allegations tend to focus accountability solely on individual doctors, disregarding external factors such as fatigue caused by excessive work demands. Kavanagh (2024) argues that the absence of explicit working-hour regulations creates legal vulnerability, as it places full responsibility on physicians even though institutional work systems also contribute to medical errors.

This gap highlights a critical issue of legal certainty, which in legal theory requires clear and enforceable rules so that rights and obligations are well understood. In practice, courts and the Indonesian Medical Disciplinary Honorary Council (*Majelis Kehormatan Disiplin Kedokteran Indonesia*/MKDKI) seldom consider factors such as fatigue or excessive working hours when examining cases, focusing instead on medical outcomes and individual negligence. Yet empirical evidence shows that work fatigue significantly increases malpractice risk. As a result, doctors

occupy the most vulnerable position, bearing full responsibility for errors that often stem from unhealthy and unsustainable work conditions.

Weaver et al. (2021) emphasizes that limiting doctors' working hours is essential not only for the welfare of medical personnel but also for ensuring patient safety. In this context, research on legal certainty for doctors in malpractice cases related to work fatigue and violations of working-hour standards becomes increasingly urgent. This study aims to examine how existing Indonesian regulations provide legal certainty for physicians when fatigue contributes to medical errors, as well as to clarify the distribution of responsibility between individual doctors and healthcare institutions whose work systems may create unsafe conditions. The research also seeks to contribute theoretically by expanding the understanding that legal certainty must protect not only patients but also healthcare workers operating under systemic pressures. Practically, this study provides recommendations regarding the need for explicit working-hour limits in national regulations to achieve a balanced framework of legal protection for both patients and medical personnel.

2. Methods

This research was conducted using a normative juridical approach. Normative juridical research is a legal method that involves a thorough review of literature, regulations, and legal doctrines related to the topic being studied. It focuses on understanding the law as it is written, interpreted, and applied in practice, rather than on empirical observations of behavior. The approach employs several techniques, including the legislative approach, historical approach, conceptual approach, case approach, and comparative approach. The legislative approach, for example, is used to analyze legal issues based on applicable laws and regulations, ensuring that interpretations are grounded in formal legal sources (Zamroni, 2024).

Data collection in this study was conducted through a literature study, which involves reviewing various written legal sources, including statutes, legal doctrines, case law, and scholarly publications. Literature studies provide a foundation for understanding the development of law, legal principles, and legal practice in a structured and systematic way. In conducting the literature study, the researcher first identified sources of legal materials, obtained through library catalogs, official publications, or direct access from relevant institutions. Next, the legal materials were inventoried using the table of contents or indexes of legal products, ensuring that the materials were relevant to the research objectives. Relevant materials were then recorded, cited, and analyzed in relation to the research problem (Bachtiar, 2021).

The analysis in this study was conducted qualitatively. Qualitative analysis involves interpreting data in the form of words, narratives, and concepts rather than numerical measurements, allowing for a detailed descriptive understanding of legal phenomena (Suyanto, 2022). This method is particularly suitable for examining complex issues such as legal certainty, liability, and the responsibilities of healthcare institutions, where contextual interpretation of laws and regulations is crucial. By combining normative juridical methods with qualitative analysis, this research provides a comprehensive, in-depth perspective on the legal framework governing physician malpractice, work fatigue, and institutional accountability in Indonesia. This approach ensures that conclusions are well-grounded in both statutory law and doctrinal interpretations, contributing to theoretical and practical insights in legal studies.

3. Results and Discussion

3.1. Legal Certainty for Physicians

Malpractice is a literal term where mal means wrong, and practice means implementation or action, so malpractice means wrong implementation or action. The medical meaning of malpractice is the negligence of a doctor in using the level of skill and knowledge based on the usual standards of others in treating patients with standard measures in the same environment (Syah, 2019). In a legal context, malpractice is viewed from the cause-and-effect relationship of an action, such as someone causing the death or injury of another person. Article 359 of the Criminal Code explains the consequences of someone's death and for causing injury as described in Article 360 of the Criminal Code. The full text of Article 359 of the Criminal Code states, Anyone who, due to their fault, causes the death of another person shall be punished with imprisonment for a maximum of five years or confinement for a maximum of one year. Negligence or fault from a legal perspective does not consider procedural aspects or work standards, but only looks at work results that do not meet the initial objectives and produce negative results (Fetrus et al., 2024).

Legal certainty in the context of medical malpractice relates to the guarantee that every case of alleged medical error will be handled based on clear, fair, and accountable rules. Medical malpractice is defined as a deviation from professional standards or negligence that causes harm to patients (Rahmayanti et al., 2024). In Indonesian law, the concept of malpractice covers criminal, civil, and administrative liability. Law Number 29 of 2004 concerning Medical Practice established the Indonesian Medical Disciplinary Honorary Council as an institution that assesses whether or not there has been a violation of professional discipline. However, research shows that external factors such as work fatigue are rarely taken into consideration in assessing the responsibility of doctors. Kavanagh (2024) emphasizes that the absence of specific regulations regarding the working hours of medical personnel creates legal uncertainty because responsibility for errors is often placed entirely on individual doctors, rather than on unhealthy work systems.

Legal certainty also implies legal protection for doctors who have worked in accordance with professional standards. In this context, the provisions of Article 273 paragraph (1) of Law 17 of 2023 clarify the rights of medical personnel to obtain legal protection as long as they carry out their duties in accordance with professional service standards and medical ethics. However, in practice, the application of this article often does not take into account factors such as fatigue or violations of working hours set by health facilities.

Legal certainty regarding malpractice committed by doctors is necessary to obtain protection for the safety of patients and doctors. In this regard, the government has issued provisions related to Legal Certainty for Doctors in Malpractice Cases, namely the 1945 Constitution of the Republic of Indonesia. Protection of workers' rights is based on the 1945 Constitution of the Republic of Indonesia, namely Every citizen shall have the right to work and to a livelihood that is fit for human dignity (Article 27 paragraph 2). In addition, protection of employment is guaranteed, namely that every person has the right to recognition, security, protection, and legal certainty, as well as equal treatment before the law (Article 28 D paragraph 1). This provision shows that protection for workers, in this case doctors, is an important issue that needs attention in Indonesia.

Preventive legal protection, as stipulated in Article 50 of the Medical Practice Law, provides conditional legal protection, meaning it does not automatically grant legal protection to doctors. Doctors will receive legal protection if they meet the following requirements: they have a Registration Certificate (*Surat Tanda Registrasi/STR*), Practice License (*Surat Izin Praktik/SIP*), perform medical procedures in accordance with standards (professional standards, operational

standards, service standards, and ethical standards), obtain informed consent for each medical procedure, and everything must be well documented in a book known as a medical record. Meanwhile, repressive legal protection is more focused on resolving disputes faced by doctors, such as in cases of alleged malpractice or negligence, where patients seek compensation. Since the relationship between doctors and patients is a civil one, any civil dispute brought to court must first be resolved through mediation (Mahayani et al., 2023).

Significant changes in Indonesia's health law system through Law Number 17 of 2023 concerning Health signify the government's efforts to strengthen legal protection for health workers, including doctors (Haryanto et al., 2025). The implementation of this law not only considers patients but also the safety and well-being of medical personnel when treating infectious diseases (Agita et al., 2025). The responsibility for maintaining work safety is now the responsibility of health institutions, not just individual medical personnel. This is relevant to the research theme because it shows that the current legal perspective considers the protection of doctors to be an important element in a fair health care system (Gurubhagavatula, 2021).

3.2. Physician and Institutional Responsibility

Law Number 6 of 2023 is an amendment to the Law on Employment. Law No. 6 of 2023 stipulates in Article 77 that every employer must comply with working hour regulations, working hours include 7 hours/day and 40 hours/week for 6 working days in 1 week; or 8 hours/day and 40 hours/week for 5 working days in 1 week. Article 78 states that Employers who employ workers beyond working hours must meet the following conditions: There must be worker consent, Overtime is limited to a maximum of 4 hours per day and 18 hours per week. Article 79 states that Employers must provide: Rest Periods and Leave." These provisions form the basis for determining doctors' working hours. Doctors who work beyond standard working hours may experience fatigue, which can interfere with the actions they perform. Employing workers beyond working hours should be avoided as much as possible so that workers have sufficient time to rest and recover (Nakagawa et al., 2024). Excessive working hours violate the principle of labor law protection, so the risk of malpractice is not only the responsibility of the doctor but also the responsibility of the institution. Long working hours are associated with an increased risk to doctors' physical health, such as coronary heart disease, stroke, diabetes, and mental health effects. In addition to occupational safety, long working hours have been reported to be associated with near misses, which are unexpected events that do not result in injury, illness, or damage but have the potential to do so.

Healthcare facilities are responsible for any losses arising from negligence committed by healthcare workers under their supervision. In cases where violations of working hours due to fatigue cause medical negligence, hospitals may be held liable (Jeremia & Siregar, 2025). Legal responsibility can be viewed from the aspects of professional ethics, administrative law, civil law, and criminal law. Violations of administrative law result in verbal or written warnings, revocation of practice licenses, suspension of periodic salary increases, or postponement of promotions to a higher rank. Civil law liability is regulated in Article 1367 of the Civil Code. This liability means that the guilty party causes losses to other parties and must therefore pay compensation. In civil law, patients who feel they have suffered losses can claim compensation based on Article 1367 of the Civil Code (Harmoni et al., 2022).

The next policy that discusses medical practice is Law Number 17 of 2023 concerning Health, Article 234 paragraph (3), which states, The head of a health care facility must pay attention to fulfilling the needs of incentives, security guarantees, and work safety for Medical Personnel and Health Workers in accordance with the provisions of laws and regulations. Article 273 paragraph (1) states: Medical

personnel and health workers in the course of their practice are entitled to: a) legal protection as long as they carry out their duties in accordance with professional standards, professional service standards, standard operating procedures, and professional ethics, as well as the health needs of patients; b) receive salaries/wages, service fees, and performance allowances in accordance with the provisions of laws and regulations; c) receive protection for their safety, occupational health, and security, and Article 274 letter a Medical personnel are required to provide health services in accordance with professional standards, professional service standards, standard operating procedures, and professional ethics, as well as the health needs of patients.

Health institutions are responsible for ensuring the safety of doctors. Working hours that do not comply with standards cause fatigue and the risk of malpractice. This provision provides legal protection for doctors in the event of malpractice that is not due to personal negligence, but rather work fatigue due to excessive working hours. Excessive working hours can occur when doctors receive low salaries and therefore take on additional work hours at several practice locations. Continuous work increases the risk of malpractice and endangers patients. Research shows that continuous work for doctors increases the risk of malpractice and endangers patients (Mello et al., 2020). Low wages also make doctors apathetic towards their work and make it difficult for them to empathize with patients and provide them with the best service. In addition, from a social perspective, doctors also face pressure from their families and communities to earn a good income, causing many doctors to resort to improper means to meet these demands (Nur, 2021). Furthermore, there are weaknesses in the laws governing doctors' salaries in Indonesia because, currently, doctors' salaries are based on the minimum wage system of the regency/city/province.

In this framework, Kesuma (2024) emphasizes that Law 17 of 2023 changes the legal relationship between medical personnel and the government. He explains that this new law provides clearer legal protection against occupational risks, including the right to occupational safety, security, and fair compensation (Kesuma, 2024). The responsibility of doctors in the practice of medicine cannot be separated from the responsibility of government institutions and health facilities (Dewangga et al., 2024). Work fatigue and frequent violations of working hours among doctors cannot only be seen as an issue of individual discipline, but also as a failure of the legal system and health management to provide adequate protection for medical personnel.

A similar emphasis is found in the study by Lubis (2024), which discusses the rights, obligations, and responsibilities of doctors and patients in the context of Law 17 of 2023. This new regulation establishes professional and medical ethics standards as the basis for legal accountability. Violations of professional standards can result in ethical, administrative, or criminal sanctions. However, doctors' compliance with these standards is often influenced by the working conditions provided by health facilities. Therefore, this article shows that the implementation of professional standards regulated by law will only be effective if the working environment of doctors allows them to perform their duties to the fullest without excessive physical or mental pressure. This is in line with research focusing on the relationship between work fatigue and the risk of medical errors in medical practice.

In terms of occupational safety, protective policies for medical personnel are a prerequisite for creating safe and high-quality health services. A study shows that work fatigue experienced by medical personnel can be considered a violation of the safety principles that should be pursued by health institutions. Thus, this study provides a conceptual basis for the view that legal responsibility in cases of medical errors can extend from the doctors directly involved to the health agencies that do not provide safety guarantees for their medical personnel.

At the level of legal conflict resolution, Fitriana (2023) emphasizes the use of Alternative Dispute Resolution (ADR) mechanisms in the context of medical disputes after the implementation of Law 17 of 2023. This study reveals that non-litigation resolution methods, such as medical mediation, can provide more adequate legal protection for doctors when errors occur due to work pressure or emergency situations. The current health law paradigm is beginning to recognize the complexity of doctors' working conditions and the importance of a resolution approach that takes into account fatigue factors and existing system limitations .

Physical and mental fatigue due to long working hours during the COVID-19 pandemic has been a major factor in increasing the risk of medical errors. They indicate that healthcare workers operating under extreme conditions without adequate legal protection and workplace safety bear an unbalanced burden of responsibility. Although this research was conducted before Law 17 of 2023 was implemented, the findings provide empirical evidence supporting the relevance of this new regulation. , the empirical and normative results of these various studies collectively highlight the importance of legal interpretations that recognize work-related fatigue as a valid factor to consider in determining doctors' legal liability, thereby fostering fair and proportional legal certainty (Sylvana and Utomo, 2021) .

4. Conclusion

Labor data and regulations, as well as the latest Health Law, guarantee work protection and safety. However, national health regulations are still lacking in specifically regulating safe limits for doctors' working hours, resulting in legal uncertainty because the focus of liability in malpractice cases is almost always directed at the negligence of individual doctors, ignoring the contribution of institutions in creating working conditions that violate the principles of labor protection. The implications of this situation are significant: it highlights the urgent need for policy reforms that explicitly regulate doctors' working hours through clear statutory limits and institutional accountability mechanisms, ensuring both patient safety and the legal protection of healthcare personnel. The limitations of the current research include reliance on secondary legal materials and doctrinal analysis, without empirical data on the practical enforcement of working-hour regulations in healthcare institutions. Future research should focus on empirical studies assessing the effectiveness of existing labor and health laws in protecting doctors, the role of healthcare institutions in preventing work fatigue, and the impact of work-hour policies on malpractice incidence, which could provide evidence-based recommendations for regulatory improvements.

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Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement

The data that support the findings of this study are available from the corresponding author upon reasonable request.



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